



Non-Resident Contractors

General

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PURPOSE OF THIS GUIDE

Non-resident contractors are governed by the same retail sales tax rules as other contractors doing business in Ontario. In addition to the responsibilities common to all contractors, there are certain other requirements for non-resident contractors and those doing business with them. These requirements are explained in this guide.

WHO IS A NON-RESIDENT CONTRACTOR?

A non-resident contractor is a construction contractor located outside Ontario who has been awarded a contract to perform work in Ontario but who has not maintained a permanent place of business in Ontario continuously over the previous twelve month period immediately before signing the contract.

GUARANTEE DEPOSIT AND REGISTRATION

Non-resident contractors awarded a contract in Ontario are required to register with the Retail Sales Tax Branch and post a guarantee that amounts to 4% of the total of each Ontario contract. The guarantee can be paid in cash, by certified cheque (payable to the Treasurer of Ontario), or by a guarantee bond.

Non-resident contractors who already hold a valid Ontario retail sales tax vendor permit are not required to post a guarantee.

To obtain forms and information, non-resident contractors should contact the Private Sales Control Unit, Retail Sales Tax Branch, 33 King Street West, P.O. Box 623, Oshawa, Ontario, L1H 8H7, telephone (416) 433-6224.

LETTER OF COMPLIANCE

After receipt of the guarantee, the Retail Sales Tax Branch will issue a letter of compliance in duplicate to the non-resident contractor certifying that the requirements outlined above have been met.

Non-resident contractors should provide their customers with one copy of the letter of compliance referred to in the previous paragraph. Where this is not done, the customer is required to withhold 4% of each payment due to the contractor and remit the amount withheld to the Treasurer of Ontario. The remittance and a brief note regarding the contract to which it relates should be sent to the Private Sales Control Unit of the Retail Sales Tax Branch at the address shown above. In lieu of making such deductions and remittances, the customer may furnish the Treasurer with a guarantee bond equal to 4% of the total contract price. A customer who fails to observe these requirements will be liable for any retail sales tax not paid by the non-resident contractor.

TAX ON PURCHASES

(i) Purchases in Ontario

Non-resident contractors pay tax directly to the suppliers of all taxable services, materials, machinery, or equipment purchased in Ontario. Tax is also paid directly to suppliers where machinery or equipment is rented or leased from an Ontario lessor.

(ii) Purchases Outside Ontario

Tax is payable on all items such as materials, machinery, and equipment brought into Ontario from another province or another country for use in performing a contract. The tax is reported on the Ontario retail sales tax return filed by the non-resident contractor when the contract is finished. If the contractor holds a valid Ontario retail sales tax vendor permit, tax will be reported on line 3 of the contractor's return covering the period in which the items are brought into Ontario.

The tax on construction materials brought into Ontario for own use is calculated on the fair value of the goods. Fair value includes:

- the purchase price in Canadian funds, or the manufactured cost of goods produced for own use;
- all charges by a vendor for handling and delivery; and
- customs duties and federal sales and excise taxes.

Where machinery or equipment is brought into Ontario for temporary use, the tax for each month of temporary use is calculated using the following formula:

$$1/36 \times \text{original cost} \times \text{tax rate.}$$

For the purpose of this formula, a month is more than 12 and up to 31 consecutive days. This means the consecutive days in which the machinery or equipment is in Ontario, not just those it is in actual "use".

For example, equipment is brought into Ontario on March 28 and removed on May 8. The first 31 days of this 41 day period is one "month". Since the remaining 10 days are not enough to constitute another "month", tax is payable only for one month. If the equipment had been removed on May 12 instead of May 8, tax would be payable for two "months" (the first 31 days is one "month" while the remaining 14 days is another).

When this formula is used, payment is required for no more than 36 months for any given piece of equipment.

If it is anticipated that the machinery or equipment will be in Ontario for some years, tax should be paid on its fair value (generally book value) at the time it is brought into Ontario.

If tax is being paid on the formula basis and it becomes apparent that the machinery or equipment will be in Ontario for some years, the tax must be recalculated on the basis outlined in the previous paragraph. In this case, the tax previously paid on the formula basis can be deducted and only the difference remitted. A refund will not be made where the tax paid on the formula basis exceeds the tax calculated on the value at the time the machinery or equipment is brought into Ontario.

(iii) Exemptions

Manufacturers, public hospitals, Indian Band Councils and farmers may be entitled to an exemption for certain equipment or materials incorporated into real property. A non-resident contractor who supplies and installs these items for a customer qualifying for such an exemption does not have to pay retail sales tax on the purchase or manufacture of such items.

COMPLETION OF CONTRACT

When a contract is completed, a non-resident contractor who was required to post a guarantee must complete the return provided by the Retail Sales Tax Branch.

Where the contractor's guarantee was given in cash or by certified cheque, the amount of the deposit can be deducted from the liability. Any amount remaining unpaid must be remitted by the contractor; where the cash deposit exceeds the liability, the difference will be refunded to the contractor.

Where a guarantee bond was posted in lieu of cash, the bond will be discharged once full payment of the tax is received.

The information in this publication is only a guideline. For more specific information, please consult the Retail Sales Tax Act or contact the local Retail Sales Tax Office listed in the blue pages of the telephone directory.